



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LISSETTE RIVERA,

Plaintiff,

-against-

COMMISSIONER OF SOCIAL SECURITY,

Defendant.
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ORDER

18 Civ. 1935 (GWG)

GABRIEL W. GORENSTEIN, United States Magistrate Judge

The defendant filed a motion for judgment on the pleadings on July 27, 2018 (Docket # 15). On September 21, 2018, plaintiff filed a letter requesting to “revise” her medical record (Docket # 18). The Court responded by extending plaintiff’s time to oppose the defendant’s motion. See Memo Endorsement, filed Sept. 24, 2018 (Docket # 19) (“September 24 Order”). As part of that order, the Court also stated that “[i]f, as part of her response, Ms. Rivera wants to present additional medical records[,] she should attach them to her response and explain how they are relevant to her condition in the time period between January 2014 and May 2017.” Id. Thereafter, plaintiff made another request for an extension, which was granted, and plaintiff filed her opposition on December 10, 2018 (Docket # 22). The opposition did not include any medical records.

On February 5, 2019, the Court issued an order giving a new deadline for defendant to file its reply to plaintiff’s opposition in light of the stay of the this case necessitated by a partial government shutdown. See Order, filed Feb. 5, 2019 (Docket # 24) (“February 5 Order”). The February 5 Order included a direction to the defendant to supply the Court with an electronic disk containing the administrative record. Id.

On February 15, 2019, the Court received from plaintiff via U.S. Postal Service Priority Mail Express three electronic disks whose labels indicate they contain: (1) X-rays dated January 24, 2014 (from Doshi Diagnostic Imaging Services); (2) a lumbar spine MRI dated March 11, 2014 (from Stand-Up MRI); and (3) a lumbar spine MRI dated October 15, 2016 (from 3T Open Imaging of Westchester). The envelope containing the disks also included a copy of the February 5 Order.

Briefing is complete in this matter and thus it is not clear why plaintiff sent these disks to the Court. The Court assumes that plaintiff misinterpreted the Court’s February 5 Order to mean that she should supply disks of medical records. That was not the case. The February 5 Order simply asked the Government to supply a disk containing the Administrative Record, which had already been filed in this case on July 27, 2018. (Docket # 14).

The September 24 Order did permit plaintiff to supplement the record. However, the disks plaintiff has sent do not comply with this Order for several reasons. First, they have been sent many months after plaintiff's response was due. Second, they are original images of x-rays and MRIs, which the Court has no ability to read. Finally, it appears that they do not supplement the record as a practical matter because they correspond with medical reports on imaging that are already contained in the record. See Administrative Record, filed July 27, 2018 (Docket ## 14, 14-1 to 14-6), at 449-51 (x-rays from January 24, 2014), 445 (MRI from March 11, 2014), and 816 (MRI from October 15, 2016).

Accordingly, the Court is returning the electronic disks to plaintiff.

SO ORDERED.

Dated: New York, New York
February 21, 2019



GABRIEL W. GORENSTEIN
United States Magistrate Judge

Copy sent to:

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Counsel by ECF (without enclosures)